



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3501 FAX (603) 271-6683



Frank Guiffre
81 Shadow Lake Road
Salem, NH 03079

**NOTICE OF PROPOSED
LICENSE ACTION
No. 02-002
July 15, 2002**

I. Introduction

This Notice of Proposed License Action is issued by the Department of Environmental Services, Water Division ("DES") to Frank Guiffre, pursuant to RSA 541-A:30 and RSA 485-A: 32, I and Env-Ws 1004,19(b). DES is proposing to revoke Permit #CA2001039411 held by Mr. Guiffre, based on the violations alleged below. **This notice contains important procedural information. Please read the entire notice carefully.**

II. Parties

1. The Department of Environmental Services, Water Division is an administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH.
2. Frank Guiffre is an individual having a mailing address of 81 Shadow Lake Road, Salem, NH 03079.

III. Summary of Facts and Law Supporting Proposed Action

1. RSA 485-A:29-44 authorizes DES to regulate the subdivision of land and the design and installation of subsurface sewage disposal systems. Pursuant to RSA 485-A:41, the Commissioner of DES has adopted NH Admin. Rules Env-Ws 1000 to implement this program.
2. DES issued construction approval CA2001039411 dated December 4, 2001 ("the Permit") to Frank Guiffre to allow construction of a new septic system located at 81 Shadow Lake Road, Salem, NH ("the Property"). The Permit was issued to improve an existing situation by reconstruction of the existing septic system.
3. Env-Ws 1004.19(a) states that "any [septic system] approval issued by the department shall be issued based on the presumption that the information submitted as part of the application is true, complete or not misleading."
4. Env-Ws 1003 et seq. requires review and approval of a septic system design prior to construction of an individual septic system.
5. On June 5, 2002, DES personnel inspected the Property, along with the Town of Salem health officer, an abutting property owner and that owner's attorney. The purpose

of the inspection was to verify the dimensional information provided to DES by the applicant on which the Permit was issued.

6. The inspection revealed that several important dimensions were reported in error on the application . These incorrect dimensions included distance from surface waters to the leach field of the system, and the distance to the well located on the abutting property.

IV. Violations Alleged

1. Frank Guiffre has provided incorrect and untrue information on the application for an individual septic system permit.

V. Proposed Action

1. Based on the violations identified in IV, 1, above, DES proposes to revoke the Permit issued to Frank Guiffre.

VI. Hearing, Response, Proposed Settlement

Mr. Guiffre has the right to a hearing to contest these allegations before the proposed license action is taken. The hearing would be a formal adjudicative proceeding pursuant to RSA 541-A:31, at which Mr. Guiffre and any witnesses Mr. Guiffre may call would have the opportunity to present testimony and evidence as to why the proposed action should not be taken. All testimony at the hearing would be under oath and would be subject to cross examination. If Mr. Guiffre wishes to have a hearing, one will be scheduled promptly.

RSA 541-A:31, III(e) provides that Mr. Guiffre has the right to have an attorney present to represent him at his expense.

Mr. Guiffre may waive his right to a hearing. If Mr. Guiffre waives the hearing, DES is prepared to revoke the Permit. Mr. Guiffre should notify DES of his decision by filling out and returning the enclosed form by August 14, 2002.

Anyone having questions regarding this matter should contact Richard J. de Seve, Compliance Supervisor, at 271-3442.


COPY
Harry T. Stewart, P.E., Director
DES Water Division

Certified Mail #7099 3400 0003 0695 8685

Enclosures

cc: Board of Selectmen, Town of Salem

Gretchen Rule, DES Legal Unit

William E. Evans, P.E., Administrator, DES Subsurface Systems Bureau

Richard J. de Seve, DES Subsurface Systems Bureau

James Troisi, Esq.

M. Timothy Warnick